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C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 000433

SIPDIS

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TAGS: [PGOV](#) [KDEM](#) [IZ](#)
SUBJECT: IRAQ'S ELECTION COMMISSION QUICKLY REVIEWS
COMPLAINTS

REF: BAGHDAD 274

Classified By: Acting Political Counselor John Fox for reasons 1.4 (b) and (d).

11. (C) Summary. Iraq's Independent Electoral Commission (IHEC) has completed its review of the 2,023 complaints submitted after the provincial elections. According to UN and international technical advisors, the number of complaints has been much lower than anticipated. However, IHEC has identified roughly 12,000 ballots from 30 polling stations that will be disqualified. The Diyala results will be politically sensitive in that the disqualified ballots come from the Kurdish-majority city of Khanaqin. On February 19, IHEC will announce the results of its administrative review. This will be followed by a three-day period during which its complaint resolution decisions can be appealed. After all appeals have been adjudicated, IHEC will announce certified elections results (expected o/a February 23). End Summary.

Low Number of Complaints, Thorough Review

12. (C) According to UNAMI elections advisor Victoria Stewart-Jolley, 2,023 complaints were submitted nationwide following the January 31 Iraqi provincial elections. This includes 173 filed after the January 28 Special Needs Voting, administered for qualified voters including military, police, inmates and prison staff, hospitals and patients. IHEC estimates that two-thirds of the complaints concern voting in the provinces of Ninewa, Diyala, and Anbar. The majority of complaints appear to be centered around voters' inability to find their names on the voter list. Due to the overall low number of complaints, and the especially low number of "red" complaints (see below), UNAMI expects a rapid initial review of all complaints by the third week of February.

13. (U) While the complaints process is fundamentally the same as that used in 2005, the procedures are more complex this time around. For internal purposes, IHEC is categorizing the complaints as white, yellow, green or red. White-level complaints do not have complete information; yellow complaints do not have information that can be substantiated. Roughly 80-90% of the complaints received by IHEC fall into these two categories, and they are of low concern. Green signifies complaints that are complete and can be substantiated, but will not materially affect the outcome of the elections. Red complaints are the most critical: these are substantial claims with complete information about one or more incidents that would materially affect the outcome of the elections. On February 17, IHEC reported that there are only 26 red complaints.

IHEC Capably Pursues the Process

14. (SBU) Since February 3, seven technical advisors (from UNAMI and the International Foundation for Electoral Systems) have worked together with a team of 17 IHEC staff to review all of the complaints. IHEC Chairman Faraj al-Haydari oversees the team. Sometimes the IHEC Complaints Team reaches out to the IHEC legal advisors in each governorate to clarify or seek information. After the team has reviewed a set of complaints, it recommends actions to the IHEC Board, which takes final decisions on all complaints. UNAMI reports that this effort has been working smoothly, and that the Iraqi team is quickly and capably completing the process.

15. (U) After the IHEC Board completes its review of all of the complaints, the results will be released to the press on or around February 19 to ensure transparency. The complaints will be listed by serial number in order to protect the confidentiality of each individual or party. Voters or organizations can then match the serial number published in the newspaper to the duplicate copy of the complaint form they submitted.

Appeal and Review of Decisions

16. (C) All final decisions of the IHEC Board will include a notice of the right to appeal. The Board can reconsider a decision upon presentation of new evidence, or cases may be appealed to the Electoral Judicial Panel (EJP). Decisions made by the EJP, which consists of three judges appointed by the Court of Cassation, are final and cannot be appealed. After IHEC makes its determinations public, complaining parties will have three days to initiate appeals to the EJP.

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EJP must make a decision on IHEC-referred appeals within ten days. UNAMI advisors doubt that complaining parties will appeal IHEC decisions to the EJP; however, the final, certified results of the provincial elections cannot be announced until the appeals period has been successfully concluded.

Comment

16. (C) Neither IHEC nor its UNAMI advisors can comment on specific complaints under review. Embassy has learned that IHEC has investigated specific allegations of fraud in Anbar and Diyala. The outcome of the investigations is that the results from 30 polling stations will be nullified (a total of roughly 12,000 votes or less than one percent of the total votes cast nationwide). The Diyala results will be politically sensitive as the nullified ballots come from the predominantly Kurdish city of Khanaqin. So far there are no indications of major complaints that would adversely affect the credibility of the election results, but it is too early to rule this out. UNAMI has also observed little infighting among the Commissioners, and little interference in the process by domestic politicians and parties. IHEC plans to announce the official, certified election results on February 23, but there is a chance that this date may slip.
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